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Written statement* submitted by the public organization "Public Advocacy", a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[23 May 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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On the seizure and re-arrest of the church building located in the village of Ptycha, Dubno district, Rivne region, Ukraine

Our human rights organization has repeatedly drawn the attention of the OSCE and the UN Human Rights Council to the necessity of restoring the rights of the religious community of the Ukrainian Orthodox Church (UOC) in Ptycha village.

Numerous court rulings confirm that the said religious community is a legal owner of the building of the Holy Virgin Assumption church. At present, the community's ownership right to the church is not contested by anyone.

Since 2015, the adherents of the religious organization of the Kyiv Patriarchate, with the support of some radical organizations, have been recurrently trying to take over the church. For this end, they committed raider seizures, initiated legal actions, and exerted pressure on local authorities, who on their part took various actions to either abolish the community's ownership right to the church or to take hold of it in any other possible way.

For instance, on 17.11.2015, Ptycha village council adopted decision No. 25 to establish the shared use of the church building by the two parties to the conflict. Another decision of the Ptycha village council No. 324 as of 22.03.2017 was, in fact, another attempt to transfer the church to the community of the Kyiv Patriarchate by means of a local referendum, despite the existence of the court ruling confirming the ownership right of the UOC community to temple. The two above-mentioned decisions of Ptycha village council were ultimately canceled after the community of the UOC had filed relevant lawsuits.

It is noteworthy that over the course of 2016-2017 the community of the Kyiv Patriarchate failed to initiate a number of trials to abolish the ownership right of the UOC community to the church building. All their claims were rejected by the court.

As it follows from the foregoing, after the UOC had won the trials, its community was supposed to take the possession of the church and use it without any obstacles, while the local authorities had to facilitate this by every possible means.

Instead, on January 19, 2016, the temple was arrested under article 170 of the Criminal Procedure Code of Ukraine within one of the lawsuits that had been initiated upon the claims of the conflicting parties.

In fact, this article does entitle courts to arrest property, but only in the event, if there is sufficient grounds for the belief that such property **has been an object, means, or an instrument of a criminal violation, or has been evidence of a crime, or has been gained as a result of commission of a criminal violation and/or as proceeds from such**. Even if the church building is considered by the investigative authorities as evidence to be preserved, all the necessary procedural activities could have been accomplished over a two year period. Moreover, since 2016 the investigative authorities should have already taken a decision to either close the criminal proceedings or remit the case to the court. But neither has been done.

Obviously, the church building in view of the circumstances of this case cannot be attributed to any of the categories of property that can be subject to court arrest. Consequently, the arrest was unreasonable and unlawful. This means that the criminal proceedings along with the court ruling to arrest the church building arise from a political decision of local authorities who fail to prevent flagrant violations of the believers' rights of the Ukrainian Orthodox Church.

The community of the UOC, being a law-abiding legal person, has used its right to challenge the arrest, and since 2016 has filed motions to revoke property arrest with a view to renewing the performance of divine services in the temple.

On April 2, 2018, the court ordered to revoke the arrest. However, on the same day the church building was violently seized by unknown armed persons. The police officers, who arrived at the scene of the crime, protected the seized building preventing the legitimate owner, the UOC community, from entering the territory and the church itself, without taking any action to detain the real offenders.

On April 3, 2018, the temple was arrested again on the basis of the appeal of the law enforcement authorities in a new criminal proceeding.

Simultaneously with the new arrest, the authorities, led by the head of Dubno State Administration, head of the village council, began to coerce the owner of the temple – the UOC community – to transfer the building to the Kyiv Patriarchate for no legal reasons. Arguments that the only legitimate owner of the building, as confirmed by numerous court decisions, is the religious community of the Ukrainian Orthodox Church in Ptycha village are disregarded by civil servants.

For the pressure on the faithful, talks were held in the presence of the chief of the police service and the head of the state administration. A. Yurash, head of the Department for Religion of the Ministry of Culture of Ukraine, also took part in the session. All these civil servants exerted unprecedented unlawful pressure on the believers of the UOC and demanded that the building of the church be transferred to the Kyiv Patriarchate, despite numerous court decisions that came into force in favor of the UOC community. Ignoring the law and justice by civil servants has taken on a blatant form, as they formalized their demands towards the UOC community on an official letterhead of the state body – the village council of Ptycha village.

In support of their demands, apart from political motives, the civil servants referred to scandalous bills No. 4128, 4511, 5309, which our organization had reported to the Human Rights Council at the 37th and the present session. Such actions also indicate that if these bills are adopted, human rights violations and attempts to take away the property of the UOC, as in the case of the community of Ptycha village, will become a mass phenomenon in Ukraine.

All these facts testify not only to the fact that law enforcement officials have committed gross violations of the legislation of Ukraine as well as the norms of international law, but also to the fact that government authorities are reluctant to defend human rights when it comes to believers of the Ukrainian Orthodox Church.

Please follow the link below for more information: www.protiv'or.com/ptichacase

In accordance with the special procedure of the Human Rights Council, we sent a complaint on this matter due to the fact that the community of Ptycha village, Rivne region, has exhausted all available domestic remedies.

We urge the UN HRC to examine the case of Ptycha village, Rivne region, in an accelerated manner in view of its significance for the religious peace in Ukraine.